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In re Application of
Weiss
Application No. 09/936,859
Filed: November 15, 2001
Attorney Docket No. 06275-283US1

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APR 13 2006

OFFICE OF PETITIONS

DECISION GRANTING PTA

This decision is in response to applicant's "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" requesting that the Office adjust the PTA determination at the time of the notice of allowance BE ADJSUTED from a determination of NINETY-EIGHT (98) days to a determination of ONE HUNDRED AND THIRTY-THREE (133) days.

Applicant's application is **GRANTED**. The Office will adjust the PAIR calculation to reflect this decision.

Applicant assert that the Office was correct in their determination of ninety-eight (98) days of Office delay for failing to meet the requirements of 37 CFR 1.702(a)(1). Applicants assert that the Office failed to add an additional 36 days pursuant to 37 CFR 1.702(a)(2). Applicants assert that the applicants mailed a response to the non-final rejection dated April 23, 2004 on July 24, 2003. Applicants assert that the Office had four months to respond but did not respond until December 30, 2003, a thirty-six day delay. In addition, applicants concede that they delayed by one day the response filed on July 24, 2003.

Applicants arguments are persuasive. A review of the PTA/PALM history does not reflect the submission of a response on July 24, 2003. However, the Image File Wrapper (IFW) clearly reflects receipt of applicants' amendment that was filed on July 24, 2003. The Office error in not entering the response to the non-final rejection into the PALM created an incorrect PTA determination. Accordingly, the Office did not meet the requirements of 37 CFR 1.702(a)(2) within four months. The delay was thirty-six (36) days. Applicant missed the requirement of 37 CFR 1.704(b) by one day. Accordingly, the overall amount of PTA is one hundred and thirty-three days (98+36-1=133).

After the mailing of this decision, the Office will forward this application to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuing the patent beyond four months of the payment of the issue fee and other requirements being satisfied under 37 CFR 1.702(a)(4) will be added at the time of the issuance of the patent and will be reflected in the issue notification letter that is mailed to the applicants approximately three weeks prior to the actual issue date.

The Office has charged the \$200.00 fee. No additional fees are required.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy at 571-272-7757.

Kery Fries
Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: adjusted PAIR calculation

Day : Wednesday

Date: 4/12/2006

Time: 14:25:41

PALM INTRANET**PTA Calculations for Application: 09/936859**

Application Filing Date:	11/15/2001	PTO Delay (PTO):	98
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	133
PTO Delay Adjustment:	35		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
38	04/12/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	35		
17	12/30/2003	MAIL NOTICE OF ALLOWANCE			
16	12/30/2003	MAIL FORMAL DRAWINGS REQUIRED			
15	12/29/2003	FORMAL DRAWINGS REQUIRED			
14	12/29/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
13	12/29/2003	NOTICE OF ALLOWABILITY			
12	04/23/2003	MAIL NON-FINAL REJECTION	98		-1
11	04/17/2003	NON-FINAL REJECTION			
10	12/23/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	08/15/2002	CORRESPONDENCE ADDRESS CHANGE			
8	08/15/2002	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
7	03/26/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	12/07/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
5	12/04/2001	APPLICATION DISPATCHED FROM OIPE			
4	12/04/2001	NOTICE OF DO/EO ACCEPTANCE MAILED			

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